



Department of Human Services
Monroe County, New York

Maggie Brooks
County Executive

Kelly A. Reed
Commissioner

To: Maggie Brooks, County Executive

Date: July 14, 2010

Subject: CDR Contract for CDPAP Services

CC: Dan DeLaus, Deputy County Executive
Rick Marchese, Deputy County Attorney
Robert Franklin, Deputy Commissioner, MCDHS
Marc Natale, Director, Administrative Services, MCDHS
File

County Executive Brooks,

As Commissioner of the Monroe County Department of Human Services, I feel obligated to inform you of recent findings and serious concerns regarding a Department of Human Services (DHS) vendor, the Center for Disability Rights, Inc. (CDR).

Monroe County has worked with CDR in earnest for nearly a year to rectify what we feel is an unacceptable level of performance on the part of any County-contracted vendor. In our opinion, CDR has acted, or failed to act, in a way that not only represents a disservice to taxpayers, but blatantly jeopardizes the health and overall wellbeing of some of our community's most vulnerable residents. Furthermore, it is Monroe County's understanding that CDR has been under and continues to be under investigation by the New York State Attorney General's Office for cases of client neglect, resulting in ongoing prosecutions of client aides in both Monroe and Ontario counties. One of these instances involved aides who allegedly left patients with severe disabilities un-attended on several occasions while they were off-site playing BINGO. Other aides were revealed to be both using and selling illegal drugs from a patient's residence. Both of these were cases involving CDR.

It is important to recall that concerns with CDR were a driving force behind Monroe County's implementation of the Voice Recognition System (VRS) in the DHS Consumer Directed Personal Attendant Program (CDPAP). VRS was launched in July 2009 to ensure the safety of clients in the CDPAP Program as well as to reinforce Monroe County's commitment to eliminating waste, fraud, and abuse in all Social Service programs. We had hoped at the time that VRS would effectively put an end to our concerns with CDR. However, not only did CDR take serious issue with our implementation of a program designed to protect the very clients they are contracted to serve, but DHS continued to hear of instances where CDR was allegedly making program decisions that compromised the safety and best interest of our clients.

These concerns ranged from direct complaints by clients who reported that CDR was not performing routine home visits to an extremely unsettling complaint involving a quadriplegic client living with Multiple Sclerosis. This client reported that she was often left unattended, with the knowledge of CDR, despite the fact that she is largely unable to do anything for herself and her medical needs require 24

hour care. During a recent home visit conducted by a Physical Therapist from Home Care of Rochester, the client was found alone, as the CDR attendant had failed to arrive for coverage at all that day. When the client was found, the puffer apparatus that assists her in moving her wheelchair had fallen out of her mouth (meaning she was not able to operate her chair or call anyone for help), and her urine bag was overflowing. It was later revealed that CDR was directly aware of this incident and knew it had not provided sufficient coverage for a 24-hour case, but failed to inform DHS of the dire need to reassess for a different plan of care.

The client was hospitalized as a result of this incident. She is now in nursing home care – where it is expected she will be forced to remain.

When this appalling case was brought to our attention, DHS initiated a series of unannounced home visits to 24-hour clients receiving services through the Center for Disability Rights. In each case, we found some degree of negligence on the part of CDR. The following includes four specific findings of the twelve cases we investigated:

- A DHS investigator knocked on the door of Client #1's home, but there was no answer. The investigator was told by a neighbor that the client had moved. Our Home Care Unit (HCU) located the client with the assistance of family members, finding that he had moved nine days prior and had notified CDR of his move. This represents a safety issue because HCU must assess the suitability of an apartment to ensure the well being of a client. It also appears, through Medicaid billing, that this client frequently goes without coverage. From 2/1 – 4/4/2009, for instance, this client had less than 24-hour coverage for 24 out of 63 days, including days where he received only 8, 12, and 16 hours of coverage. CDR receives timesheets weekly. CDR's Service Coordinator is explicitly assigned to review coverage hours and notify DHS of any change in conditions for a client within 2 days. This was never done, yet CDR is under contractual obligation to do so.
- Client #2 is a spasmodic paraplegic and is unable to care for himself without assistance. A CDR Attendant was present when the investigator's visit was conducted. However, the attendant had not checked-in on the VRS system, as required. The client relayed to the investigator that he sometimes has trouble with his aides who call in at the last minute and say that they are not able to come for their shift. As a result, this client often goes without coverage for a period of time, usually throughout the night. In a shoddy attempt to mitigate this issue, CDR provided the client with a Lifeline call button to push in case there was an emergency when an aide was not present. The obvious concern with this plan is that the client does not have dexterity in his arms or hands to utilize the call button. The client stated that it was his opinion that, "it is done this way so that they (CDR) avoid any liability/responsibility". CDR has not notified DHS about coverage issues with this client. A check of Medicaid billing shows that for 30 of the past 69 days this client has received less than 24-hour coverage, and at times he has had coverage for only 6 or 10 hours in a 24 hour period.
- Client #3 is a disabled 90 year-old gentleman whose attendants had not used the VRS system at all prior to the home visit conducted by our investigator. The client reports he was having issues with an aide who was showing up late on a regular basis thereby presenting periods of time where he had no coverage. The client notified CDR of this concern, but CDR failed to report this to DHS or to directly address it for the client.

- Client #4 lives with disabilities requiring 24-hour service. She cannot write and has a Self Directing Other (SDO) who schedules her aide service for her. She fears for her safety because the SDO schedules aides without the approval of the client. For example, one aide came to her home intoxicated and fell asleep on her couch. The SDO threatens to put the client in a nursing home if she complains. This client had told CDR on two separate occasions about her concerns, the most recent being a week before the unscheduled visit by our investigators, but CDR failed to do anything to ensure the safety of the client. CDR also failed to notify DHS about the concern.

These are just some examples of unannounced home visits to CDR clients conducted by DHS investigators. All visits demonstrated an obvious lack of professionalism, care, concern, and diligence on the part of CDR, and an inability to perform the necessary obligations to ensure client safety as a vendor for Monroe County. Based on these investigations, attorneys from the Monroe County Law Department have deemed 4 accounts – at the very least – serious enough to terminate CDR from operating in a business capacity for Monroe County.

DHS has also met with multiple State agencies who indicated their continued interest in pursuing CDR for fraud and abuse of the Medicaid program. Due to ongoing investigations of this vendor for both patient neglect and financial mismanagement, the Monroe County Law Department has ultimately advised that Monroe County not enter into a new contract with CDR. Continuing a business relationship with CDR under these circumstances would ultimately place many DHS clients in immediate and grave danger.

I cannot conclude any discussion regarding the County's business relationship with CDR without also making mention of the two dual and distinctly different roles that CDR holds within our community. CDR is primarily an advocacy organization for local residents living with disabilities, which ultimately chose to enter into business as a for-profit home care provider several years ago. With this in mind, we must hold CDR to the same standard as we do any other County-contracted vendor, regardless of its advocacy roots. This is especially true when the safety of DHS clients is placed at risk.

Therefore, in closing, it is my recommendation that Monroe County end its relationship with the Center for Disability Rights as a vendor for the CDPAP Program immediately.

Sincerely,

Kelly A. Reed
Commissioner